

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE UNITED STATES OF AMERICA,

Plaintiff,

**Criminal Action Number:
06-cr-518-3**

vs.

KEVIN WADE NELSON,

Defendant.

DEFENDANT SENTENCING MEMORANDUM

Aiello & Cannick
Attorneys for Defendant, Kevin Wade Nelson
69-06 Grand Avenue
Maspeth, New York 11378
Telephone: (718) 426-0444

Objections to the Pre-Sentencing Report

In Paragraph 4 – the pre-sentencing report states that Kevin Wade Nelson pled guilty before the Honorable Sidney Stein. The guilty plea was taken and recommended by the Honorable Kevin A. Fox, not the Honorable Sidney Stein.

In Paragraph 11, it states that the 50 kilos of cocaine were delivered in the New York area. It should be noted that the defendant never made any delivery in New York. The delivery was made in New Jersey.

In Paragraph 12, 13 & 22, it states that 55 kilos were delivered to Pisano. The defendant made a 25 kilo delivery on May 6th, 2006 to an individual known to him as “Manny”.

Safety Valve Exception

Kevin Wade Nelson was arrested on the charges contained in the indictment on April 11th, 2007. He pled guilty before Magistrate Judge Kevin A. Fox on January 10th, 2008. Mr. Nelson has been in custody since that time. At the time of his plea, he admitted his guilt and accepted responsibility for his conduct. Moreover, subsequent to his guilty plea he met with Assistant United States Attorney Eugene Ingoglia and gave a detailed account of his involvement in the offense. It our considered opinion that as a result of these meetings he qualifies for the Safety Valve Exception.

Sentencing

Kevin Wade Nelson's youthful years were rot with extreme poverty and abuse. Much of his time was spent being shipped back and forth between his parents. However during the time that he spent at his mother's home, he as well as his mother and brother Kurt, were beaten with a strap by his stepfather. He was beaten four or five times per week. These beatings started when he was approximately six years old and lasted until he was approximately fourteen years old.¹ That is when he moved back to his father's home in Minnesota. Kevin did not have a meaningful relationship with neither his parents nor siblings. At a very early age, he was put in a position where he had to fend for himself. His mother offered him very little by way of financial or emotional support. She certainly did not or could not protect him from the abuse of his stepfather. When Kevin went to live with his father permanently, he was not abused physically but psychologically. In fact, in 1985, his father's constant riding him about being a loser coupled with Kevin's overall feelings of worthlessness caused him to attempt suicide.

It should be noted that Kevin began abusing narcotics at the age of thirteen. It was then that he started using marijuana. His drug use escalated over time wherein he became a habitual user of cocaine and "speed". Kevin also consumed a considerable amount of alcohol on a weekly basis. He dropped out of school in the tenth grade. He was not a good student. Kevin's involvement in the instant offense was not due to greed or his thirst for a flashy lifestyle. Instead he found himself drowning economically and when this opportunity presented itself he unwittingly saw it to be his lifeline. Just prior to his arrest, he had purchased a new tractor trailer truck. Before this purchase he invested substantial monies into the repairs of his old truck.

¹ Kevin Wade Nelson's mother denies that Kevin or she was physically abused by her second husband. Kevin is adamant in his position and cried during the pre-sentencing interview when he recounted the abuse.

Given the financial strains of his business and his marriage, he saw this as an opportunity to get himself together financially. The financial strain on his marriage was such that he and his wife eventually separated. This led to his experiencing severe bouts of depression and an increase in his illegal drug use.

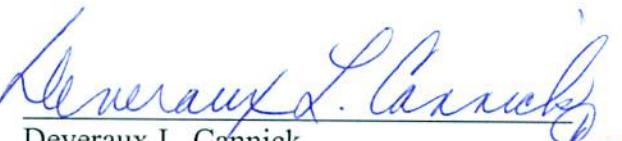
Conclusion

Kevin Wade Nelson's history and character are of the nature that warrants this Court to exercise its discretion and show mercy to him. The overall bent of his adult life has been one of abuse and humiliation.

Life has not been nice to Kevin Wade Nelson – even his earlier years were not happy ones. We reference his past, not as an excuse for his conduct, but to give the Court a sense of the bent of his life. It our considered opinion that this is not a guideline case. Kevin Wade Nelson does not need to spend ten years or 108 months in jail to satisfy the ends of justice. We urge this Court to show him favor. Give him an opportunity to get back to his children so that he can give them that which was not given to him. We ask Your Honor to fashion his sentence here that is sufficient but not greater than necessary. We ask Your Honor to sentence Kevin Wade Nelson to 60 months incarceration with a drug and alcohol counseling.

We thank you in advance for your consideration.

By:


Deveraux L. Cannick
Attorney for Defendant, Kevin Wade Nelson
Aiello & Cannick
69-06 Grand Avenue
Maspeth, New York 11378
(718) 426-0444
Bar No. DLC1509